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C O N F I D E N T I A L SECTION 01 OF 02 BEIRUT 002763

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E.O. 12958: DECL: 08/25/2026  
TAGS: [KCRM](#) [PREL](#) [PTER](#) [PGOV](#) [LE](#) [SY](#)  
SUBJECT: ON HARIRI TRIBUNAL, JUSTICE MINISTER WANTS TO COAX  
BERRI

REF: BEIRUT 2609

Classified By: Jeffrey Feltman, Ambassador, per 1.4 (b) and (d).

SUMMARY

1. (C/NF) Over lunch with the Ambassador on 8/25, Justice Minister Charles Rizk reviewed the draft UN-GOL "Statute of the Special Tribunal for Lebanon." While only a few bracketed items remain, he said, one is important: whether the tribunal will try only suspects in Rafiq Hariri's assassination or, in addition, in other crimes deemed to be related. Worried that Hizballah will try to block the more expansive mandate, Rizk said that he was trying to figure out how to win the blessing of Parliament Speaker Nabih Berri to help ensure the statute's passage by the Lebanese cabinet and parliament. He expected UN/OLA chief Nicolas Michel would travel to Lebanon after about ten days, but the Minister wondered if that timing was auspicious or not. Rizk admitted that he considered his role in establishing the tribunal as increasing his chances to assume the Lebanese presidency in place of his discredited childhood friend Emile Lahoud. On specific clauses in the draft statute, Rizk (after checking with his staff) said that the article on "crimes against humanity" (which he acknowledged made him uncomfortable) was inserted at the UN's request. It was designed, he said, to justify the tribunal's competency and overrule immunity clauses in the Lebanese and Syrian legal codes. Noting that Berri would likely focus objections to the tribunal on this clause, Rizk said that he would welcome another method to meet the needs the UN cited in including the "crimes against humanity" language. End summary.

STILL UNDER (LEBANESE) DISCUSSION:  
JUST HARIRI CRIME, OR OTHERS, TOO

2. (C/NF) Providing a copy (dated 7/14 but which Rizk said contained more recent updates) of the draft "State of the Special Tribunal for Lebanon" to the Ambassador (and which we have sent by secure fax to NEA), Rizk reported that the negotiations between UN/OLA and the GOL (with judges Chukri Sadr and Ralf Riachi the Lebanese contacts) had been proceeding well. Although there were only a few bracketed items left to work out, one was very important: whether the tribunal will have jurisdictions just "over persons responsible for the terrorist attack of 14 February 2005 resulting in the death of former Lebanese Prime Minister Rafik Hariri and in the death or injury of other persons," or if the tribunal will have jurisdiction for the Hariri case

"as well as for other related acts of a similar nature and gravity which occurred in Lebanon between 1 October 2004 and 31 December 2005."

¶3. (C/NF) The language regarding the other crimes remains bracketed text, at the Lebanese request, Rizk reported. While Parliament Speaker Nabih Berri and all of the cabinet ministers (including those from Hizballah) are already on record supporting a tribunal for the Hariri assassination, Rizk expects opposition to the broader mandate, especially from Hizballah. So the brackets will remain until he sees if he can sell the concept to Berri, who will want time to think about it "and check with Hizballah and probably the Syrians."

Rizk said that he would see Berri soon to start a delicate negotiating process, in hopes of winning Berri's approval -- which he saw as key to the cabinet and parliament approval that the statute requires to come into force.

RIZK WANTED OPEN-ENDED MANDATE  
TO PROVIDE DETERRENCE; UN BALKS

¶4. (C/NF) For his part, Rizk said that, regarding the tribunal's jurisdiction, he occupied a position 180 degrees different from what he believes Berri's position to be. Rizk said that he preferred not having an end date at all, in hopes that the existence of the tribunal will be a deterrent against future crimes. UN/OLA, however, balked at an open-ended arrangement that could extend the life of the tribunal for decades and, they argued, stymie judicial development in Lebanon. Moreover, he said, UN/OLA argued that the UNSC had not authorized such an open-ended mandate. The Ambassador questioned the wording related to "similar nature and gravity," asking whether that was specific enough.

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If the tribunal looks at other crimes besides the Hariri assassination, the Ambassador said, there should be the presumption of a strong connection to the primary crime, not simply a "similar nature." Reading Article 1 again, Rizk said that he found the existing language in the draft statute satisfactory in that respect.

'CRIME AGAINST HUMANITY' -- UN-SPEAK?

¶5. (C/NF) The Ambassador expressed concern about Article 3, "Crimes against humanity." Rizk said that the clause bothered him, too. "Berri will hate it," he said, "and imagine the Syrians!" The Ambassador suggested that perhaps Rizk should try to get Article 3 removed as a gift to Berri, to win Berri's acquiescence for the tribunal by giving him something he can take credit for. Rizk at first agreed, then he called Riachi to ask why that article remained. Riachi said that UN/OLA had insisted on the article, claiming that it (more than the Lebanese Criminal Code cited in Article 2) justified the competency of an international tribunal. The Ambassador asked whether a Security Council resolution was sufficient justification. Shaking his head, Rizk, quoting Riachi, said that the "crimes against humanity" language also enabled the tribunal to overrule any claims of immunity provided by Lebanese and Syrian law. The Ambassador asked whether Rizk would accept any other formula to accomplish the same goals (of providing justification for the competency of the tribunal and overruling immunity laws), and Rizk answered, "absolutely!"

MUSING ABOUT THE TIME FOR MICHEL'S VISIT

¶6. (C/NF) Rizk said that expected UN/OLA chief Nicolas Michel to arrive in Beirut in about ten days. While stating that he was eager to wrap-up the draft statute, Rizk fretted about whether Michel's trip right now might be "more than we can bear" -- UNSCR 1701 implementation, the ongoing blockade of the airport and seaports, the expansion of UNIFIL, etc.

Rizk said that he was not trying to block Michel's visit and was merely thinking outloud. But, he said, the timing is very important, in order to avoid as much political opposition as possible. The Ambassador asked what others thought about Michel's trip. Both Saad Hariri and PM Siniora want Michel's trip to occur as soon as possible, Rizk said, emphasizing that he had not made up his mind himself.

USING THE TRIBUNAL TO ADVANCE  
RIZK'S PRESIDENTIAL AMBITIONS  
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17. (C/NF) Rizk said that he saw the establishment of the tribunal as the greatest legacy he could leave Lebanon as Justice Minister. Rattling the ice cubes in his second Scotch, he waxed eloquently about the international precedent being set. As often with Maronite politicians of a certain stature, he discussed how his work on the tribunal should improve his chances for replacing Emile Lahoud as Lebanon's president. After all, Rizk said, he was appointed to the Siniora cabinet in July 2005 at the request of Lahoud, an association that made him suspect in the eyes of the March 14 ministers. Now, as he has distanced himself politically from Lahoud over the past year, he has overseen the process by which one of the March 14 political goals -- the establishment of the tribunal -- is being achieved. "They all expected me to block this," he said, "but I pushed it harder than they did!" So Rizk judges himself as now acceptable as a presidential candidate to Saad Hariri, Fouad Siniora, Walid Jumblatt, etc. "Only the other Maronites still hate me," he laughed, "and that has to do with competition, not my policies." At the same time, he claimed that Berri, too, still trusts him. While Berri wants the pro-Syrian Jean Obeid to be Lebanon's next president, "he knows that the (March 14) majority will never permit that." So Rizk, in Rizk's mind, becomes the perfect compromise candidate: not too antagonistic to the Syrians, a fall-back candidate for Berri, and now acceptable to the non-Christian members of March 14. "The Patriarch likes me, too," Rizk said, hopefully. And as for General Aoun? "Forget about Aoun -- he's crazy!"  
FELTMAN